

United States District CourtWESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

CRIMINAL COMPLAINT

V.

CASE NUMBER: 0732mJAMES SMITH
1939 Dartmore Street
Pittsburgh, PA 15210

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about January 18, 2007 in Allegheny County, in the Western District of Pennsylvania defendant did, (Track Statutory Language of Offense)

knowingly distribute any visual depiction that has been mailed, or has been shipped or transported in interstate commerce, or which contains materials which have been mailed or so shipped or transported, by any means, including by computer, that involved the use of a minor engaging in sexually explicit conduct, and the visual depiction is of such conduct in violation of 18 U.S.C. § 2252(a)(2).

in violation of Title 18 United States Code, Sections 2252(a)(2).

I further state that I am a Postal Inspector Official Title and that this complaint is based on the following facts:

See Attached Affidavit

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Joseph J. Belluso
Signature of Complainant

Sworn to before me and subscribed in my presence,

30 January, 2007
Date

Amy Reynolds Hay, United States Magistrate Judge
Name and Title of Judicial Officer

at Pittsburgh, Pennsylvania
City and State

Amy Reynolds Hay
Signature of Judicial Officer

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Magistrate No.

07-32m

[UNDER SEAL]

AFFIDAVIT FOR CRIMINAL COMPLAINT

I, Joseph Bellissimo, being duly sworn, depose and state as follows:

1. I am a Postal Inspector with the United States Postal Inspection Service. I have been employed as a Postal Inspector for 16 years. As part of my duties, I investigate violations of federal law, including activities relating to the Sexual Exploitation of Minors, in violation of Title 18, United States Code, Sections 2251 and 2252. Through my experience and training, I know that Title 18, United States Code, Section 2252 makes it a criminal offense for any person to knowingly transport or ship or receive in interstate or foreign commerce by any means including by computer, any visual depiction of a minor engaged in sexually explicit conduct. Section 2252 also prohibits a person from possessing one or more matters which contain such visual depictions which have been mailed or shipped in interstate or foreign commerce or which has been produced using materials which have been mailed or so shipped or transported by any means, including by computer. I am also aware that Title 18, United States Code, Section 2256 defines "minor" for purposes of Sections 2251 and 2252, as "any person under the age of eighteen years." Section 2256 also defines "sexually explicit conduct" for purposes of these sections as including:

a. genital-genital, oral-genital, anal-genital, and oral-anal sexual intercourse, whether between persons of the same or opposite sex;

- b. bestiality;
- c. maturbation;
- d. sadistic or masochistic; or
- e. lascivious exhibition of the genitals or pubic area of any person.

Section 2256 defines "child pornography" as any visual depiction, including any film, photograph, videotape, negative, slide; or any photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, slide, on any disk, diskette; or other physical medium that allows an image to be displayed on a computer or other video screen; and any image transmitted to a computer or other video screen by telephone line, cable satellite transmission or other method.

2. This affidavit is made in support of a criminal complaint for James E. Smith, DOB 3/21/58.

3. Some time in October, 2006, this affiant was contacted by a Postal Inspector in a different region and advised of an undercover investigation into an individual that she was corresponding with in chat rooms and/or internet chat groups related to incest. This Inspector assumed the persona of a woman ("K.L.") who claimed to have a 7 year old daughter. The individual, James Smith, revealed in internet chats, that he resided in Pittsburgh. The discussions between Smith and the Postal Inspector progressed from general talk of incest to specific plans for "Jim" (James Smith) to have sex with the 7 year old daughter of K.L. Smith also claimed to be having sex with his own 10 year old daughter, and sent a photograph of a young child alleged to be his daughter via the internet on October 10, 2006. From October to the present, via the internet, continued correspondence about sex with children resulted in Smith sending a photograph of himself,

nude photographs of his body, specifically his penis, and photos of a general adult sexual nature for the purpose of "introducing" himself to the 7 year old daughter of K.L. and "preparing" her for their eventual sexual encounter. The Postal Inspector communicated via a webcamera, or webcam, with Smith from what appeared to be his home. Every time that Smith transmitted images of himself via the webcam, he was nude and at home.

4. In conjunction with the continued chats regarding incest, the Postal Inspector, acting as K.L., arranged to send a photograph of her 7 year old daughter to Smith at his home via the U.S. mail, at 1939 Dartmore Street, Pittsburgh, Pennsylvania, 15210, in November of 2006. In internet correspondence, Smith acknowledged receipt of the photograph of the child (K.L.'s 7 year old daughter). Smith also commented on her appearance and his sexual arousal. Using a webcamera, Smith could be seen by the Postal Inspector holding the photograph of K.L.'s 7 year old daughter that he had received by mail.

5. This affiant has reviewed pages of chats and internet discussion that continued between James Smith and the Postal Inspector through January of 2007. Smith directed and "coached" K.L. to prepare her daughter so that she would be "ready" when they ultimately had sex. This included requests for K.L. to discuss sexual functions with her 7 year-old daughter, such as ejaculation, fellatio, and masturbation, and requests for K.L. to expose her daughter to sexually explicit photographs. Smith also demonstrated, nude, via webcam, multiple poses that he wanted K.L. to put her 7 year old daughter in and to photograph. It was agreed that K.L. would photograph her daughter in these poses and send the photographs to James Smith at his home, 1939 Dartmore Street, Pittsburgh, PA, 15210, via U.S. Mail. The poses demonstrated by Smith were sexually explicit and designed to expose the genitalia of K.L.'s daughter.

6. On January 18, 2007, Smith transmitted four sexually explicit images to the Postal Inspector via the internet, in a further effort to groom or "prepare" K.L.'s 7 year-old daughter for their eventual sexual encounter. Two images are obviously minor children engaging in sexually explicit conduct and constitute child pornography as defined by Title 18, United States Code section 2256(8). The other two images appear to depict young individuals whose precise age cannot be readily determined.

7. This affiant confirmed with the postal carrier assigned to that route that James Smith does regularly receive mail at 1939 Dartmore Street, Pittsburgh, PA, 15210.

8. On January 29, 2007, a controlled delivery of photographs containing child pornography was executed at the home of James Smith at 1939 Dartmore Street. Consistent with Smith's communications with the Postal Inspector, the package was supposed to contain photographs of K.L.'s 7 year old daughter in the sexually explicit poses previously demonstrated by Smith. At approximately 1:35 PM, Smith signed for and accepted delivery of the sexually explicit photographs. A few minutes later, this affiant and a search team made entry into Smith's home, after Smith responded to a knock on the door, pursuant to a federal search warrant. Upon entry, Smith had the Express Mail package in his hands, the package was open, but the contents did not appear to have been removed.

9. I am aware that 18 U.S.C. §2252 provides, in relevant part:

(a) Any person who

(1) Knowingly transports or ships in interstate or foreign commerce by any means including by computer or mails, any visual depiction, if

(A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct and

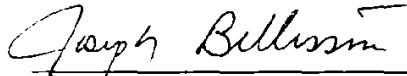
(B) such visual depiction is of such conduct;

(2) knowingly receives, or distributes, any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer, or knowingly reproduces any visual depiction for distribution in interstate or foreign commerce or through the mails, if--

(A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(B) such visual depiction is of such conduct .. [has violated the statute].

10. Based on this information, your affiant submits there is probable cause to believe that on or about January 18, 2007, James Smith knowingly distributed visual depictions of minors engaging in sexually explicit conduct, the producing of which involves the use of a minor engaging in sexually explicit conduct, that has been transported in interstate commerce, in violation Section 2252(a)(2).



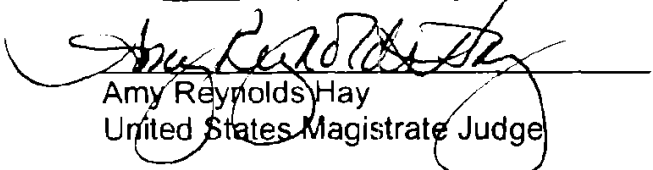
JOSEPH BELLISSIMO

Postal Inspection

U.S. Postal Inspection Service

Sworn and subscribed to before me

this 30th day of January, 2007.



Amy Reynolds Hay

United States Magistrate Judge